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UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF NEW YORK

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In re:

Chapter 11

58 Dobbin LLC,

Case Nos. 24-41110-ess and  
24-44179-ess

Debtor.

Hon. Elizabeth S. Stong

-----X United States Bankruptcy Judge

**58 DOBBIN FUNDING L.P. 'S LIMITED OBJECTION AND RESERVATION OF  
RIGHTS TO: (A) THE MOTION TO APPROVE STIPULATION BETWEEN THE  
UNITED STATES TRUSTEE AND THE DEBTOR DISMISSING THE CHAPTER 11  
CASE IN CASE NO. 24-41110 AND THE DEBTOR'S MOTION TO DISMISS FILED IN  
CASE NO. 24-44179**

TO THE HONORABLE ELIZABETH S. STONG,  
UNITED STATES BANKRUPTCY JUDGE:

58 Dobbin Funding L.P. ("Secured Creditor" or "Dobbin"), a secured creditor and mortgagee of 58 Dobbin LLC (the "Dobbin Debtor"), by and through its attorneys, Kriss & Feuerstein LLP, respectfully submits this respectfully submits this Limited Objection and Reservation of Rights (the "Limited Objection") to: (A) the Motion of the United States Trustee for Approval of the Stipulation and Proposed Order Dismissing the Debtors' Chapter 11 Cases (the "US Trustee Motion to Dismiss"), filed in Case No. 24-41110 (ESS) (the "Second Bankruptcy Case") [Second Bankruptcy Case ECF No. 24]; and (b) the Debtor's Motion for an Order Dismissing Debtor's Case Pursuant to Sections 105 and 1112(b) of the Bankruptcy Code and Rule

1017 (the “Debtor’s Motion to Dismiss”), filed in Case No. 24-44179 (ESS) (the “Third Bankruptcy Case”) [Third Bankruptcy Case ECF No. 5], and the Secured Creditor respectfully represents as follows:

### **PRELIMINARY STATEMENT**

1. The Debtor has now filed for bankruptcy three times. The latest bankruptcy case – the Third Bankruptcy Case - was filed before the prior one was dismissed and is one of four bankruptcy filings that purported to stay the Secured Creditor from availing itself of its rights, including foreclosure of the Debtor’s real property. The Secured Creditor does not object to a dismissal of either case. Rather, the Secured Creditor is asserting this limited objection to request that this Court enter the order granting the Secured Creditor’s In rem Motion before dismissing this case via the US Trustee Motion to Dismiss the Second Bankruptcy Case and the Debtor’s Motion to Dismiss the Third Bankruptcy Case.

### **BACKGROUND**

#### **The First Bankruptcy Case Affecting the Property**

2. On August 16, 2023, just one (1) day before a foreclosure sale (the “First Foreclosure Sale”) scheduled and noticed by the Secured Creditor to foreclose on the Debtor’s real property (the “Property”), the Debtor filed a petition (the “First Petition”) in the United States Bankruptcy Court, Eastern District of New York for Chapter 11 bankruptcy relief (Case No. 23-42938-ess) (the “First Bankruptcy Case”), staying the First Foreclosure Sale [See First Bankruptcy Case ECF No. 1].<sup>1</sup>

3. The Debtor failed to prosecute the First Bankruptcy Case to any meaningful extent and failed to: (i) file monthly operating reports; (ii) file a plan of reorganization and (iii) make

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<sup>1</sup> “First Bankruptcy Case ECF No.” shall refer to the docket entries in the First Bankruptcy Case.

payments to Secured Creditor.

4. On January 5, 2024, this Court entered an order dismissing the First Bankruptcy Case. [See First Bankruptcy Case ECF No. 33].

**The Second Bankruptcy Case Affecting the Property**

5. After the First Bankruptcy Case was dismissed, Secured Creditor scheduled another foreclosure sale of the Property for March 14, 2024 (the “Second Foreclosure Sale”) [See Fried Decl, at ¶ 42, Ex. Q].

6. On March 13, 2024 (the “Petition Date”), just one (1) day before the Foreclosure Sale, the Debtor filed a petition (the “Second Petition”) in the United States Bankruptcy Court, Eastern District of New York for Chapter 11 bankruptcy relief commencing the Second Dobbin Bankruptcy (Case No. 24-41110-ess) and staying the Second Foreclosure Sale [See Second Bankruptcy ECF No. 1].

7. On April 22, 2024, Secured Creditor filed a motion for relief from the automatic stay (“Stay Relief Motion”) [See Second Bankruptcy ECF No. 14];

8. On August 8, 2024, the Bankruptcy Court entered an Order granting the Stay Relief Motion “pursuant to 11 U.S.C. §§ 362(d)(3) to permit the Secured Creditor, its successors and/or assigns, to pursue its rights under applicable law with respect to the Dobbin Debtor and/or the Property ...” [See Second Bankruptcy ECF No. 22] (“Stay Relief Order”).

9. The Second Dobbin Bankruptcy case presently remains open and pending.

10. After the Stay Relief Order was entered in the Second Dobbin Bankruptcy, the Secured Creditor scheduled another foreclosure sale of the Property for October 10, 2024 (the “Third Foreclosure Sale”).

**The Third Bankruptcy Case Affecting the Property**

11. Notwithstanding that the Dobbin Debtor's open and pending Second Dobbin Bankruptcy, on October 8, 2024, two days before the Third Foreclosure Sale, the Dobbin Debtor filed yet another Chapter 11 bankruptcy petition in the Bankruptcy Court for the Eastern District of New York, Bankruptcy Case No. 24-44179-ess ("Third Bankruptcy Petition"), which bankruptcy petition arguably stayed the Third Foreclosure Sale.

#### **The Fourth Bankruptcy Case Affecting the Property**

12. In an attempt to further complicate matters and frustrate Secured Creditor's attempt to sell the Property pursuant to the JFS, on October 9, 2024, one (1) day prior to the Third Foreclosure Sale, 150 Skillman St. LLC ("150 Skillman"), an affiliate of the Debtor, filed a Chapter 11 petition commencing the Skillman Bankruptcy case, which was filed in the United States Bankruptcy Court for the Eastern District of New York and styled as *In re 150 Skillman St LLC*, Case No. 24-44210-nhl, notwithstanding the fact that 150 Skillman St. LLC has no interest in the Property.

#### **In rem and Dismissal Motions**

13. On September 10, 2024, the Office of the United States Trustee (the "U.S. Trustee") filed the U.S. Trustee Motion, seeking approval of a stipulation dismissing the Second Bankruptcy Case. [Second Bankruptcy ECF No 24].

14. On October 10, 2024, the Debtor filed the Debtor's Motion to Dismiss, seeking to dismiss the Third Bankruptcy Case. [Third Bankruptcy ECF No. 5]

15. In response to the Third Bankruptcy Petition and the bankruptcy filing of 150 Skillman, the Secured Creditor filed a motion (the "In rem Motion") for an order for in rem relief from the automatic stay pursuant to Section 362(d)(4) [Second Bankruptcy ECF No. 31; Third Bankruptcy ECF No. 11; 150 Skillman ECF No. 12].

**LIMITED OBJECTION**

66. The Secured Creditor does not object to a dismissal of the Second Bankruptcy Case via the US Trustee Motion to Dismiss or the Third Bankruptcy Case via the Debtor's Motion to Dismiss. The Secured Creditor respectfully requests, however, that this Court enter an order granting the Secured Creditor's In rem Motion before dismissing either case.

**WHEREFORE**, the Secured Creditor respectfully requests that this Court enter the order granting the Secured Creditor's In rem Motion before dismissing this case and granting such further and different relief to the Secured Creditor as the Court may deem just and proper.

Dated: New York, New York  
November 8, 2024

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